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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,600	07/26/2001	Chris A. Barton	NA11P020/01.139.01	8707
28875	7590	05/16/2005	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			SCHUBERT, KEVIN R	
			ART UNIT	PAPER NUMBER
			2137	
DATE MAILED: 05/16/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/916,600

Applicant(s)

BARTON ET AL.

Examiner

Kevin Schubert

Art Unit

2137

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). 04132005  
13. ☐ Other: \_\_\_\_\_.



**ANDREW CALDWELL  
SUPERVISORY PATENT EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because:  
The examiner notes that the IDS filed 4/13/05 has been considered.

As to the applicant's arguments with regard to claim 42, the arguments have not been considered because Figure 8 as referred to by applicant is not included in the applicant's specification.

The applicant's arguments with regard to claims 1 and 17 have been fully considered, but they are not persuasive. The applicant argues that the rejection under Makita in view of Flint fails to disclose part e, "wherein a user is allowed to disable the scanning module, and data is precluded from being transmitted from the storage to the cpu upon the disabling of the scanning module". The examiner disagrees. Makita discloses a system whereby a cpu (host) requests a data transmission from a storage location. The storage location retrieves the data and performs an internal virus check on the data before it sends the data back to the cpu (host) ([0180]-[0184]). Only when the virus check reveals that the data is clean is the data sent to the host to prevent the host from getting infected. Flint discloses the idea of a user being able to disable and enable a virus scanning module (Col 9, lines 5-24) which is lacking from Makita. If Flint is combined with Makita, the virus check unit now has the capability to be temporarily enabled and disabled. If the virus check unit is temporarily disabled in the embodiment described above, the host will supply a command for data, the storage will retrieve the data and supply it to the virus check unit, but the virus check unit will be unable to process the data since it is disabled. Furthermore, the data will be precluded from being transmitted from the storage to the cpu until the virus check unit is turned back on and the data checks out as being virus free.

The applicant's arguments with regard to claim 35 have been fully considered, but they are not persuasive. The applicant argues that Makita does not teach part d), "the scanning module coupled to the central processing unit and the storage subsystem controller, the scanning module adapted for identifying the requests from the central processing unit, and scanning the data for malicious code in response to the requests". The examiner disagrees. Makita teaches a scanning module (413 of Fig 15) which is coupled to the cpu (110 of Fig 15) and the storage subsystem controller (211 of Fig 15). As described by Makita, the host computer system sends a request to scan for data which is delegated to the virus check unit ([0174]). The request from the cpu is thus to scan for data. The scanning module is adapted for identifying the requests from the cpu as it is adapted to receive requests for a data scan and scan data.

The applicant also argues that Makita does not teach part e), an "event manager coupled to the scanning module and the cpu, the event manager module adapted for receiving results of the scanning from the scanning module, the event manager adapted to execute an event based on the results of the scanning". The examiner disagrees. Makita discloses a file management unit (211 of Fig 15) which is coupled to the scanning module (413 of Fig 15) and the cpu (110 of Fig 15). Furthermore, "the file management unit manages the storage of files into, the readout and deletion of files from, and access rights to the recording medium of the external storage" ([0091]). Put simply, the file management is the controller for the storage unit which controls all operation for the storage. As stated, the file management unit controls the readout of data from the storage. Makita also discloses that when no virus is discovered in the virus check unit, data is readout from the storage unit. When a virus is discovered, data is not readout from the storage unit. Since the file management unit is the controller of the external storage unit and controls the readout of files from the storage unit, it is inherent that the file management unit controls the transmission of the data (the event) based on the results of the scanning.

The applicant's arguments with regard to claim 40 have been fully considered but they are not persuasive. The examiner argues that Flint does not provide support for a user being an administrator as claimed. Flint discloses that a user or administrator can maintain a similar system to that of Makita's and the applicant's. Flint provides support that a user can be an administrator.